

Special Called Meeting of the City of Sandy Springs Board of Ethics Meeting held on July 28, 2008 at 9:00 AM

Call to Order

Chairman Maddrey called the meeting to order at 9:00 a.m.

Board Members Present: Charles Maddrey, Jim Langlais, Glenn Moffett, Nancy McCord, Andrew Heyward and Dick Isenberg.

Staff Present: City Attorney Kathy Williams

Also present was David Davidson, City Attorney, City of Roswell.

Approval of Agenda

Mr. Moffett moved to approve the meeting agenda. Mr. Langlais seconded the motion. The motion carried unanimously.

Chairman Maddrey stated that he would like to move old business to the beginning of the meeting.

Approval of Minutes of July 9, 2008 Special Board Meeting

Chairman Maddrey stated that the Clerk had not submitted the minutes for approval.

Old Business

Discussion of the Analysis of the Wiley Complaint

Mr. David Davidson stated that he had reviewed the complaint and the City's Ethics Ordinance. He stated that based on the complaint, the City is currently involved in some litigation. He stated that Mr. Wiley testified by affidavit as to the height of a building that is directly next door to his house.

Mr. Moffett questioned if Mr. Wiley was paid as an expert in that case. Mr. Davidson stated that he did not know. Mr. Moffett questioned if Mr. Wiley testified in opposition to the city's position. Mr. Davidson stated that he did.

Mr. Davidson stated that the city then began to review its policy on the measurement of height. He stated that Mr. Wiley was urged to recuse himself from this vote. He did not.

At that time, Council requested that Mr. Willard file an ethics complaint on this matter.

Mr. Davidson reviewed the sections of the Ethics Code that should be considered when reviewing this matter. He stated that he will be referencing the previous section numbers of the Ordinance. He referenced Section 6, Section 11, and Section 3. From those issues, the Board will need to decide if Mr. Wiley had a personal interest in the outcome of the official action on changes to the Ordinance and if so, did he violate Section 6 and Section 11 or were his actions exempted.

Mr. Davidson stated that another issue for the Board to consider is whether or not Mr. Wiley violated Section 10 regarding outside employment.

Mr. Davidson explained the actions that the Board can take under the ordinance.

Chairman Maddrey stated that Mr. Wiley has not responded to the complaint.

Mr. Moffett commended Mr. Davidson on the analysis of this complaint.

Mr. Moffett stated that he feels a hearing will be needed. Mr. Langlais questioned if there was enough information present or if more information was needed. Chairman Maddrey requested a copy of the affidavit and a copy of the minutes of the Planning Commission meeting.

Mr. Langlais requested that a Request for Admissions be sent to Mr. Wiley to provide additional information.

Chairman Maddrey questioned if Mr. Wiley was compelled to be present for the hearing. Mr. Moffett stated that he was not compelled to be present for the hearing.

Mr. Davidson questioned if there was proof that Mr. Wiley received the complaint. Mr. Moffett stated that there was not. Mr. Moffett questioned if an affidavit could be received from someone who knows he received the complaint. Ms. Williams stated that they could.

Mr. Langlais moved to hold a hearing on this complaint. Mr. Moffett seconded the motion. The motion carried unanimously.

Chairman Maddrey expressed his concerns regarding the fact that there is no proof that Mr. Wiley received the complaint. There was a consensus that the hearing would be scheduled for August 14, 2008 at 9:00 a.m.

Chairman Maddrey stated that he has requested that the Vice Chairman conduct the hearing.

Chairman Maddrey stated that he would be sending the notice of the hearing overnight. Mr. Moffett stated that he should be personally served. It was decided that a Sandy Springs Police Officer would serve Mr. Wiley with the notice and the complaint.

Mr. Langlais suggested that the letter include recognition that Mr. Wiley did not file a response. Mr. Isenberg questioned if Mr. Wiley was required to appear if the police serve him with the notice. Mr. Langlais stated that it did not require him to come.

Chairman Maddrey requested that Mr. Davidson assist him in preparing a letter to Mr. Wiley.

Mr. Langlais moved to appoint Vice Chairman Glenn Moffett as the hearing officer for this hearing. Mr. Heyward seconded the motion. The motion carried unanimously.

Committee Reports

Education Committee

Ms. McCord has nothing to report at this time. She stated that she would like to discuss with the Council at a work session the information that should be distributed to the Boards, Committees, and Commissions.

Ordinance and By-law Review Committee

Chairman Maddrey explained the process for placing items on Council's agenda. He stated that he is not ready to go to Council at this time. He suggested that this be presented at the September work session. Mr. Langlais

suggested that the Board not go through the ordinance line by line at this point and wait until the next meeting when all of the suggested changes have been made. Chairman Maddrey stated that they should review the major changes.

Chairman Maddrey stated that one important item for him was the issue regarding the alternates. Mr. Langlais stated that he has amended the Ordinance so that alternate only vote when they are serving in the place of a board member. He has also removed the proxy.

Mr. Langlais stated that another substantive change was to the penalties section. He stated that there was some discussion regarding the ethics training. He explained that the penalties were unclear in the previous Ordinance. He explained the following possible penalties:

(a) Letter of Notification. The board may issue a letter of notification when it finds that a violation of this division was clearly unintentional or inadvertent. The letter must advise the Respondent of any steps to be taken to avoid future violations.

(b) Letter of Admonition. The board may issue a letter of admonition when it finds that the violation of this division was minor and/or may have been unintentional or inadvertent.

(c) Letter of Reprimand. The board may issue a letter of reprimand when it finds that the Respondent has intentionally or knowingly violated this division.

(d) Recommendations to City Council. When the board finds that the Respondent has intentionally or knowingly violated this division, the board may make a recommendation to the city council, including but not limited to a recommendation for suspension, demotion, forfeiture of office or removal from office, termination from employment, and/or banning or temporarily suspending the Respondent's (or Respondent's associated businesses or organizations') right to solicit, bid on or obtain a contract with or from the city, as allowed by applicable law.

(e) Referral to Ethics Training. Upon finding of violation of this division, the board may require that the subject of the complaint undergo ethics training.

He stated that there was some concern regarding the City having to pay for Ethics Training. He stated that this could be training that the Board provides or the City provides.

Chairman Maddrey stated that he feels the Board should not tell the City it has to provide Ethics Training. He feels that the Ethics Board should conduct the training. Mr. Langlais stated that the Board has already given direction to the City by instructing that orientation include ethics information. Chairman Maddrey stated that he only meant that the Code of Ethics be included in the orientation.

Mr. Moffett stated that the Ethics Board has to be independent to rule on matters that come before them. He would hesitate to tell someone what is or is not ethical based on the ordinance. That person could be before the Board and a conflict has already been established. Ms. McCord suggested talking to the Council about this.

Discussion followed regarding the City Attorney's change to Section 2-117. It was decided that the City Attorney's office would redraft this section in the event that a future attorney were on staff with the City.

Mr. Langlais stated that the remainder of the changes was for clarification purposes. Discussion followed regarding the non-substantive changes.

Chairman Maddrey stated that he felt a respondent could have someone speak on their behalf who was not an attorney. He stated that someone should not be forced to hire an attorney. Mr. Moffett stated that they did not have

to hire an attorney. Chairman Maddrey stated that someone might be uncomfortable coming before the Board alone.

Mr. Langlais stated that his concern is that someone could make a living representing individuals at Board hearings even though they are not attorneys.

Mr. Moffett concurred. He stated that this is a quasi-judicial body with penalty powers and someone should have the opportunity to have legal representation. He stated that an attorney would know the rules of evidence and would know how to respond to an ethics complaint.

Assistant City Attorney Williams stated that she concurs. It was determined that it should be an attorney licensed to practice in Georgia.

Chairman Maddrey stated that the Board should review the City of Dunwoody Code of Ethics.

Mr. Langlais requested that a deadline be set for any further changes to the Ordinance. He requested that the changes be in by August 12, 2008.

Mr. Langlais stated that he had made similar changes to the by-laws so that they are consistent with the Ordinance.

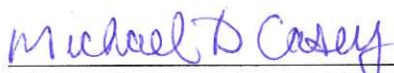
Mr. Moffett stated that more time is needed to set a hearing date. He suggested 60 days. Mr. Langlais stated that was a great idea.

Chairman Maddrey expressed concerns regarding the appointment of a hearing officer.

Adjournment

Ms. McCord moved to adjourn the meetings. Mr. Langlais seconded the motion. The motion carried unanimously. The meeting adjourned at 10:00 a.m.


Charles Maddrey, Chairman


Michael D. Casey, Interim City Clerk